

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MARCUS FULTON, individually and on behalf of similarly situated persons,

Plaintiff,

V.

COMMUNICATIONS UNLIMITED, INC.,
et al.,

Defendants.

Case No. 4:16-cv-313-RWS

JOINT PROPOSED SCHEDULING PLAN

Pursuant to Order of this Court, the parties have conferred with the purpose of formulating a joint proposed scheduling plan and submit the following:

- a. The parties propose that Track 3 is appropriate because this matter is a complex class action should proceed, the parties respectfully suggest, with discovery in two phases;
- b. All motions for joinder of additional parties or amendment of pleadings shall be filed no later than **November 1, 2016**.
- c. Discovery plan for pre-class certification discovery:
 - i. The parties have agreed upon provisions for disclosure or discovery of electronically stored information as follows: Parties will exchange discovery pursuant to the F.R.C.P. and have agreed to work together to resolve discovery disputes as they arise, involving the Court only when necessary.

- ii. The parties have come to an agreement as to asserting claims of privilege or of protection as trial-preparation material after production as follows: None, other than compliance with the F.R.C.P and local rules.
- iii. The parties shall provide disclosures pursuant to Fed.R.Civ.P. 26(a)(1) on or before **November 1, 2016**.
- iv. The parties respectfully suggest that discovery should be done in two phases to promote judicial economy and reduce the parties' litigation costs *vis a vis* expert witnesses, class-wide notice, etc. Phase One discovery will include only discovery related to issues of class certification. In the event that the Court certifies a class the parties will engage in Phase Two discovery on the class-wide claim. In the event that the Court certifies the class the parties will submit a proposed discovery scheduling order to govern Phase Two discovery.
- v. The presumptive limits of ten (10) depositions per side as set forth in Fed.R.Civ.P. 30(a)(2)(A), and twenty-five (25) interrogatories per party as set forth in Fed.R.Civ.P. 33(a) shall apply to class certification discovery.
- vi. Pre-class certification discovery shall be completed by **May 1, 2017**.
- vii. Plaintiff shall move for class certification no later than **June 1, 2017**.
- viii. Defendants shall respond to plaintiff's motion for class certification no later than **June 30, 2017**, and plaintiff shall reply no later than **July 15, 2017**.
- d. This matter may be appropriate for mediation after the parties have exchanged Rule 26 initial disclosures and deposed several key witnesses; this matter may be referred to mediation at any time between **March 1, 2017 and April 15, 2017**.

- e. No additional matters are deemed appropriate for inclusion in this Joint Scheduling Plan.

DATED: September 16, 2016

/s/ Lee W. Barron
Attorney for Plaintiff

/s/ Fredrick J. Ludwig (with consent)
Attorney for Defendant Communications Unlimited Alabama, Inc.

/s/ Steven H. Schwartz (with consent)
Steven Schwartz, Attorney for Defendants
C.U. Employment, Inc. and
Communications Unlimited Contracting Services, Inc.